

SCANNED

Pro Se 2 (Rev. 12/16) Complaint and Request for Injunction

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT

★ MAR 22 2021 ★

for the

LONG ISLAND OFFICE

EASTERN District of DISTRICT OF NEW YORK

Division

RECEIVED

MAR 23 2021

Case No.

(to be filled in by the Clerk's Office)

FABIOLA DELIRA

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

SLOMINS INC.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

CV-21 1514

BROWN, J.

TOMLINSON, M.J.

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	FABIOLA DELIRA
Street Address	70 CEDAR ROAD
City and County	WESTBURY, NASSAU COUNTY
State and Zip Code	NEW YORK , 11590
Telephone Number	516-849-4975
E-mail Address	FABLONG24@GMAIL.COM

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

Defendant No. 1

Name SLOMINS INCJob or Title *(if known)* _____Street Address 125 LAUMAN LANECity and County HICKSVILLE, NASSAU COUNTYState and Zip Code NEW YORK 11801

Telephone Number _____

E-mail Address *(if known)* _____

Defendant No. 2

Name _____

Job or Title *(if known)* _____

Street Address _____

City and County _____

State and Zip Code _____

Telephone Number _____

E-mail Address *(if known)* _____

Defendant No. 3

Name _____

Job or Title *(if known)* _____

Street Address _____

City and County _____

State and Zip Code _____

Telephone Number _____

E-mail Address *(if known)* _____

Defendant No. 4

Name _____

Job or Title *(if known)* _____

Street Address _____

City and County _____

State and Zip Code _____

Telephone Number _____

E-mail Address (if known) _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

TRUTH IN LENDING ACT and FAIR DEBT COLLECTIONS PRACTICES ACT

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) _____, is a citizen of the
State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of

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the State of (name) _____ . Or is a citizen of
(foreign nation) _____ .

b. If the defendant is a corporation

The defendant, (name) _____ , is incorporated under
the laws of the State of (name) _____ , and has its
principal place of business in the State of (name) _____ .
Or is incorporated under the laws of (foreign nation) _____ ,
and has its principal place of business in (name) _____ .

*(If more than one defendant is named in the complaint, attach an additional page providing the
same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at
stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

At my current abode I received a letter 70 CEDAR ROAD, WESTBURY NY 11590

B. What date and approximate time did the events giving rise to your claim(s) occur?

NOVEMBER 15TH 2020 AT 1PM

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

On November 15th, 2020 I received a letter Demanding Arbitration with a Statement of Claim attached. On November 27th I sent an Affidavit of Truth detailing how my rights were being violated as well as a cease and desist, invoice and exhibits detailing the violations. On or around December 5th I received an Award Judgment from Arbitration Services Inc. on behalf of Slomin's Inc. This Award Judgment stated that I was in default for failure to Answer the Statement of Claims. Pursuant to 15 USC 1692g(c) Admission of liability- the failure to dispute the validity of a debt may not be construed by any court as an admission of liability by the consumer. On December 15th I sent another Affidavit of Truth, Cease and desist, Exhibits detailing the violations and responded to the Statement of Claims. The time and date of delivery was December 16th 8:41am and 11:50 AM. Both Slomins Inc and their alleged representative Arbitration Inc received a copy. Similar to the previous Affidavit Of truth I explained how my rights under 15 USC 1605a Truth in Lending Act were violated when placed a cash downpayment when a finance charge should not include a comparable cash transaction. My rights pursuant to 15 USC 1692d Fair Debt Collection Practices Act were violated because this law prohibits a debt collector from engaging in any conduct the natural consequence is to harass, oppress, and or abuse any person in connection with the collection of a debt. Words such as "judgement against", "money awards against" are fear inducing phrases. Pursuant to 15 USC 1692b(2) a debt collector cannot state that such consumer owes any debt. As seen in Exhibit B Slomins inc states that I the consumer "owes \$2,413.63". This is a violation. According to 15 USC 1692e(3) false representation or implication that any individual is an attorney or that communication is from an attorney. Slomins Inc violated my rights because they are a soulless entity who could not give power of attorney to Kirschenbaum & Kirschenbaum. This is false implication and a violation of my rights. On January 14 and 15th Slomins Inc and Kirschenbaum and Kirschenbau received another copy of my Affidavit of Truth, Cease and desist, Invoice, Rebutal to Claims. I have attached all Certified and next daymail receipts as exhibits. Again after another 30 days of no response I mailed another series of documents similar to my prior attempts as well as an opportunity to cure on February 16th which was received the next day on February 17th at 10:23 am and 11:02am. My rights as a federally protected consumer have been violated. I have been mentally abused and I have been ignored.

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

My mental health is of upmost importance. The violations of my consumer rights deserve monetary compensation alone, but my mental health is something that will take much more to heal. Ignoring me after I have explained to you that you are in violation is now wilful. Slomins Inc wilfully violated my consumer rights and wilfully ignored my pleadings to resolve this.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

My relief should be a written apology for violating my consumer rights. I ask the court to award me \$15,000.00 in damages for vilation of my consumer rights and mental and emotional stress,

VI. Certification and Closing

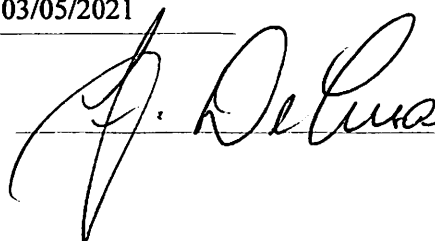
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 03/05/2021

Signature of Plaintiff

A handwritten signature in black ink, appearing to read "J. DeLuca", is written over a horizontal line.

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Printed Name of Plaintiff FABIOLA DELIRA

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

AFFADAVIT OF TRUTH

Notice to all, I, am that I am, the consumer in fact, natural person and original creditor, administrator in due course for any and all derivatives thereof for the surname/ given name DELIRA, FABIOLA, and I have been appointed and accepted being the executor both public and private for all matters proceeding, and I hereby claim that I will be d/b/a FABIOLA, DELIRA and autograph as the agent, attorney in fact, so be it;

Whereas, I of age, of majority, give this herein notice to all, I make solemn oath to the one and only most high of creation only, whoever that may be, and I depose the following facts, so be it, now present:

Fact, the Truth in Lending Act's purpose is to assure a meaningful disclosure of credit terms and to protect the consumer against inaccurate and unfair credit billing and credit practices. These terms were not disclosed to me, and;

Fact, the Fair Debt Collection Practices Act is intended to secure my right to privacy and my privacy has been breached so be it, and;

TRUTH IN LENDING

Fact, affiant is aware that Slomin's is in violation of 15 USC 1605a by having me place a cash payment down when 15 USC 1605a states- The finance charge does not include charges of a type payable in a comparable cash transaction. A finance charge in connection with any consumer credit transaction is determined as the sum of all charges. Please see Exhibit C.

FAIR DEBT COLLECTION PRACTICES ACT

Fact, Federal law prohibits a debt collector from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Exhibit A are full of examples of abusive languages used to coerce me into paying this alleged debt. Words such as "money awards against me" and "judgement against you" are phrases that are very stressful and fear inducing. These and the examples shown in Exhibit A are violations of 15 USC 1692d.

Fact, federal law prohibits the representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action pursuant to 15 USC 1692e(4). Slomin's is in violations of this statute by stating there may be an awarded judgment against me as shown in exhibit A. Any statement of judgement in regards to a fraudulent contract is a violation.

Fact, **15 USC 1692(a) Abusive Practices** shows the effect of abuse on a consumer's privacy. Slomin's is shown to violate my privacy by sharing my personal information with Kirschenbaum & Kirschenbaum, P.C. It is my right as a consumer and natural person to privacy. Please see Exhibit A.

Fact, according to **15 USC 1692b(2)** a debt collector cannot state that such consumer owes any debt. Exhibit B clearly states that I the consumer "owe \$2,413.63". Also shown in exhibit B "respondent owes claimant \$3,813.63" this is a violation of my consumer rights.

Fact, **15 USC 1692e(3)** false representation or implication that any individual is an attorney or that any communication is from an attorney. How can Slomin's inc a soulless entity give power of attorney to with Kirschenbaum & Kirschenbaum, P.C and Samuel C Atlas, Esq. This is false implication and a violation of my natural consumer rights. Please see Exhibit B.

Fact, Slomins Inc logo being shown in the contents of this attempt to collect a debt is a violation of **15 USC 1692(5)**. **15 USC 1692b(5)** states a debt collector not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt. Slomin's Inc. logo is violating my consumer rights.

Thank you,

I swear to all information provided herein, I do so under the penalty of perjury that the information I so affirm to be the true, correct, accurate to the best of my ability and knowledge, so be it;

STATE OF _____

COUNTY OF _____

Thank you,

I swear to all information provided herein, I do so under the penalty of perjury that the information I so affirm to be the true, correct, accurate to the best of my ability and knowledge, so be it;

STATE OF New York

COUNTY OF Nassau

Name printed

Signature

Fabiola Delila

J. De Prai

Sworn to or affirmed by and subscribed before me on the 11 day of Jan, year 2021,

Notary signature

[Signature]

Commission Expiration Date 12/23/2023

JERRY ABRAHAM Notary Public, State of New York Reg. No. 01AB6402094 Qualified in Nassau County Commission Expires Dec. 23, 2023

AFFADAVIT

AFFADAVIT

I FABIOLA DELIRA, consumer and natural person, original creditor and administrator hereby DENY ALL Claims presented in Statement of Claims:

- 1. Under 15 U.S.C 1681a(b) the term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.**
- 2. The term claimant derives from the word claim which in law refers to demand as one's own; to assert a personal right to any property.**
- 3. As a natural person and consumer my location information is defined as an abode not a "residence". Pursuant to 15 USC 1692a(7).**
- 4. An agreement is between two or more persons. Who was there to sign such agreement? Was Slomin's Inc present to sign. They cannot sign anything being that they are a non-living soulless entity.**
- 5. Hearsay according to law is testimony about out of court statements that are involving someone other than the person that is testifying. Was Kirschenbaum & Kirschenbaum present when said services were provided?**
- 6. "Fraud vitiates the most solemn Contracts, documents and even judgements" [U.S. vs. Throckmorton, 98 US 61, at pg. 65]. My rights as a consumer were violated under 15 USC 1605 Truth in Lending and 15 USC 1692 Fair Debt Collection Practices Act.**
- 7. Pursuant to 15 USC 1692b(2) the statement "Respondent owes..." is a violation of my consumer rights.**
- 8. 15 USC 1635 (a) The obligor shall have the right to rescind the transaction and 15 USC 1645(b) when an obligor exercises his right to rescind, he is not liable for any finance or other charge, and any security interest given by the obligor. The creditor shall return to the obligor any money or property given as earnest money, down payment, or otherwise, and shall take any action necessary or appropriate to reflect the termination of any security interest created under the transaction.**
- 9. Attorney as defined by law is one who is appointed and authorized to act in the place or stead of another. How did Slomin's Inc a soulless entity authorize any one to act on there behalf? How can they sign any agreements with an attorney?**
- 10. The definition of foregoing is, already written, or previously written. The forgoing statements listed in the Statement of Claims all constitute fraud and consumer rights violations as per 15 USC 1605 Truth in Lending and 15 USC 1692 Fair Debt Collection Practices Act.**

Thank you,

STATE OF New York

COUNTY OF Nassau

Name printed

Fabiola Delina

Signature

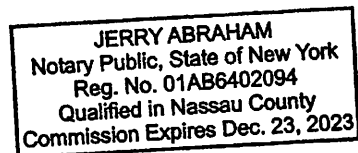
[Handwritten Signature]

Sworn to or affirmed by and subscribed before me on the 11 day of Jan, year 2021,

Notary signature

[Handwritten Signature]

Commission Expiration Date 12/23/23



CEASE AND DESIST

Pursuant to 15 USC 1692c(c) I am notifying you in writing that I refuse to pay this alleged debt, and I am demanding that you cease all forms of communication with me through any and all mediums.

Pursuant to 15 USC 1692c(c)(2)—

I am invoking my specified remedy as a consumer, and the original creditor I am demanding all the following:

Pay the attached invoice and compensate me for every violation labeled in the attached exhibits.

Zero out the balance on this account.

Written apology for violating my rights

Best Regards,

Fabiola Delira